

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. APPEAL (C) NO. 1033 OF 2017

Harishchandra Nagarchi, S/o Shankar Lal Nagarchi, aged about 21 years,
R/o Village: Chandana, Police Chowki: Kareli, District Dhamtari (C.G.)

... Appellant

Versus

1. Baldhar Sahni, S/o Lakhan Sahni, aged about 39 years, R/o Village Mahkapal, Post Telimarenga, Police Station Parpa, District Bastar (C.G.)
2. Gautam Sahare, S/o Sahdev Sahari, aged about 42 years, R/o Gandhi Nagar, Jagdalpur, Tahsil and District Jagdalpur (C.G.)
3. Bajaj Allianz General Insurance Co. Ltd., through Divisional Manager, Bajaj Allianz General Insurance Co. Ltd., Shiv Mohan Bhawan, Vidhan Sabha Marg, Pandri, Raipur, Tahsil and District Raipur (C.G.)
4. Shiv Kumar Nagarchi, S/o Gaur Singh, Village & Post: Darba, Tahsil: Kurud, District Dhamtari (C.G.)
5. Rajkamal Singhaniya, S/o M.N. Singhaniya, R/o Village: Chandraja Agency, G.E. Road, Tatibandh, Raipur, Tahsil and District Raipur (C.G.)
6. Future General India Insurance Co. Ltd., through the Divisional Manager, Future General Insurance Co. Ltd., Shop No.3, 2nd Floor, Maruti Business Park, near Dhuppad Petrol Pump, G.E. Road, Raipur, District Raipur (C.G.)

... Respondents

For Appellant : Mr. Dashrath Kushwaha, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

27/07/2017

1. Heard on I.A. No. 1 of 2017, which is an application for condonation of delay in filing the present appeal.
2. On due consideration of the reasons assigned in the I.A. No. 1 of 2017 and finding them to be satisfactory, I.A. No. 1 of 2017 is allowed and the delay of 4 days occurred in the filing of the present appeal is condoned.
3. The present appeal under Section 173 of the Motor Vehicles Act has been preferred by the appellant-claimant seeking enhancement of compensation of Rs.46,000/- awarded by the First Additional Motor Accident Claims Tribunal, Raipur, on 20.4.2007, in Claim Case No. 02 of 2012.

4. It is a case of injury where the Claims Tribunal considering the evidence which have been led, has awarded an amount of Rs.46,000/- as compensation to the appellant-claimant.

5. Learned Counsel for the appellant-claimant submits that the appellant-claimant in the instant case had received grievous injuries on his body and therefore he was entitled for much more compensation than what has been awarded by the Claims Tribunal.

6. However, perusal of the impugned award by itself shows that in paragraph 22 of the award, the Claims Tribunal has taken into consideration the fact that the appellant-claimant has not produced any document to show his nature of employment that he was having at the time of accident. Further, it has also revealed that no documents pertaining to the treatment that the appellant-claimant had undertaken in respect of the injuries sustained were produced before the Claims Tribunal. Neither was the Doctor who had treated the appellant-claimant examined before the Claims Tribunal to prove the disability part. The Doctor who has in fact been examined, has made a categorical statement before the Claims Tribunal that since the treatment had been given by one Dr. Vinod Kumar Singh therefore it was he who would had been the best person to show the disability and to explain the nature of injuries sustained by the appellant-claimant.

7. Keeping in view the aforesaid findings of the Claims Tribunal, this Court does not find this to be a strong case calling for an interference with the impugned award as in the absence of any documents to establish the treatment and further in the absence of any evidence of the treating Doctor to establish the disability part, the Claims Tribunal was justified in confining the compensation payable to the appellant-claimant at

Rs.46,000/- and thus the impugned award does not warrant any interference and the appeal deserves to be dismissed.

8. The appeal thus fails and is accordingly dismissed.

Sd/-
(P. Sam Koshy)
Judge

/shard/